

Hawaiian Gazette,

PUBLISHED
EVERY WEDNESDAY MORNING,
AT SIX DOLLARS PER ANNUM.

Foreign Subscribers, \$10.00 to \$100.00.

OFFICE.—In the new Post Office Building, Merchant Street, Honolulu, H. I.

Printed and published at No. 10, Kamehameha, at the Government Printing Office, as well as all business communications sent to be addressed.

SUPREME COURT—In Bank.

OCTOBER TERM, 1872.

ALLAN, C. J., HARTRIDGE, and WIDENHORN, J. J.
In Estate of B. F. Safford deceased. Appeal from Circuit Judge of 2d Judicial District.

It appears on examination of the accounts of George E. Moore, guardian of the minor children of B. F. Safford, deceased, before A. Fernander, Esq., Circuit Justice of Maui, on the 29th of January 1872, that there was a deficiency of \$43,50, being part proceeds of a sale of personal property of the deceased by order of the Circuit Justice of Maui, A. J. Lawrence, the proceeds of said sale having been paid into the hands of said Lawrence on his judicial order, and not to the said guardian. The entire sum amounted to \$172,22, of which the guardian could get only \$87,64 out of the hands of said Lawrence, leaving in his hands the sum of \$84,56.

W. C. Jones, counsel for the heirs, claimed that the guardian was responsible for all the personal property received by him; that the order of the Circuit Judge to pay the proceeds of the sale over to himself was illegal, and an abuse of power in which the guardian should not have acquiesced; that the heirs should not suffer by the Judge's abuse of authority, nor by the guardian's negligence or inefficiency; that the guardian was negligent in failing to take any proper or legal steps to secure the money from the Judge.

L. McCallum, counsel for the guardian, claimed that the guardian was not responsible for all the personal property received by him; that the order of the Circuit Judge to pay the proceeds of the sale over to himself was illegal, and an abuse of power in which the guardian should not have acquiesced; that the heirs should not suffer by the Judge's abuse of authority, nor by the guardian's negligence or inefficiency; that the guardian was negligent in failing to take any proper or legal steps to secure the money from the Judge.

The plaintiff's possession of title deeds, unexplained except by a grant, has much to do with the conclusion I have reached. It seems to me also unlikely that Paul Manini conspired with one preceding to be the plaintiff to forge a deed on the chance that he would survive the rightful owner. For purposes of sale in such case, Paul Manini would have had to place his deed on record, which he did not do during his or his own lifetime. The land at the time was of trifling value, some \$20, the same consideration being expressed in the deed as in the patent, and the land until recently was uncultivated.

With this result the admissibility of evidence in law tending to defeat a sealed instrument is not required to be decided. But I am strongly of the opinion that such evidence is not admissible in actions at law, under our Statutes. To admit such evidence in common law actions would open all deeds and wills to consideration of juries, and there would then be no ground for equity jurisdiction in such matters, which exists only when legal remedies are insufficient.

The plaintiff gives notice of exceptions to the foregoing findings, and that he will bring a Bill in Equity to set aside said deed; this notice being intended to be used in case this judgment be pleaded in bar to said Bill.

Witness my hand at Honolulu, Island of Oahu, H. I., the thirty-first day of October, A. D. 1872.

HAWAIIAN GAZETTE.



VOL. VIII—NO. 46.

HONOLULU, WEDNESDAY, NOVEMBER 27, 1872.

\$6.00 PER YEAR.

Our Dear Friend, the Horse.

DEAR FRIEND,

It is with great pleasure that I can assure you

that your horse is in excellent condition.

He is strong and healthy, and

has been well fed and cared for.

He is a good riding horse,

and I hope you will be

satisfied with him.

Yours truly,

John Smith.

BUSINESS NOTICES.

DR. OLIVER,

(late of the English Army Medical Staff.)

Cornet of Fort and King Streets, Honolulu.

Open every day and night.

DR. MOTT SMITH,

DENTIST,

Having received practice, can be found at his room one

E. Smith & Co.'s Drug Store, corner of Fort and King Streets.

Open every day and night.

DR. ALLEN HERBERT, Prop'r.

Allen & Chillingworth,

Kauai, Hawaii.

Will combine the former Merchants and Shipping business

at the above port, where they are prepared to furnish the

peculiarly valuable Kauai Produce, and such other Re-

cruits as are required by whalers, at the shortest notice

and the most reasonable terms. Viewed above

hand.

MCGOLGAN & JOHNSON,

MERCHANT TAILORS,

Fort St., Honolulu, opposite T. C. Head's.

Open every day and night.

G. TROUSSEAU, M. D.,

Physician of the Faculty of Paris, Knight of the

Imperial Order of the Legion of Honor.

Can be consulted at E. Smith & Co.'s, corner of Fort

and King Streets, between 10 A.M. and 4 P.M.

Private residence, Hawaii Hotel.

1872.

TROS. G. THURM'S

Stationery, Cutlery and News Depot

and Circulating Library.

Merchant Street, Honolulu. Also Steel Cutting, En-

graving, Calligraphy and Copying, promptly executed on

reasonable terms.

H. VONS,

UPHOLSTERER,

No. 1 Merchant Street, opposite the Sailor's Home.

Open every day and night.

WALKER & ALLEN,

Dealers in General Merchandise,

Shipping and Commission Merchants,

25 No. 8 King Street, Honolulu, Hawaii Islands.

Open every day and night.

A. W. PEIRCE & CO.,

(Successors to C. L. Edwards & Co.)

Ship Chasers and General Commission Merchants

Also Agents for the Pacific Salt Works,

Honolulu, Hawaii Islands.

Open every day and night.

J. W. GIBBS,

PAINTING IN ALL BRANCHES, No. 30, King St.

Opposite Wright & Wilson's Blacksmith Shop.

Open every day and night.

KEALOKA & PANEE,

House, Ship and Sign Painting!

16 Merchant Street, Honolulu.

HAVING opened their Shop on the above

street, are prepared to do all manner of work in

their line of business. Charges reasonable, and all

work done with neatness and dispatch.

1872.

D. H. HITCHCOCK,

NOTARY PUBLIC,

Hilo, Hawaii.

Open every day.

A. D. BOLSTER,

SHIP, SIGN, CARRIAGE & ORNAMENTAL PAINTER,

16 Merchant Street, above the Sailor's Home.

Painting Signs, Pictures, etc. of a first-class. Signs

Painter and Glass, all orders will be executed with

promptness, at low rates and in a good style as can be done

nowhere else.

1872.

A. S. CLEGHORN & CO.,

Importers and Dealers in

General Merchandise,

Garden Queen and Kauaiensis Streets,

24-26.

WILLES & CO.,

Importers and Dealers in

General Merchandise,

18 Merchant Street, Honolulu, Hawaii Islands.

Open every day.

THEO. H. DAVIES,

[Late Justice, &c. &c.]

IMPORTER AND COMMISSION MERCHANT,

18 Merchant Street, Honolulu, Hawaii Islands.

Open every day.

W. L. GREEN,

GENERAL COMMISSION AGENT AND BROKER,

Office in Five-proof Buildings, Queen Street,

Honolulu, Hawaii Islands.

Open every day.

THEOD. C. HEUCK,

IMPORTER AND COMMISSION MERCHANT,

18 Merchant Street, Honolulu, Hawaii Islands.

Open every day.

JOHN T. WATERHOUSE,

IMPORTER AND DEALER IN GENERAL MERCHANDISE,

Queen Street, Honolulu, Hawaii Islands.

Open every day.

H. HACKFELD & CO.,

GENERAL COMMISSION AGENTS,

Queen Street, Honolulu, Hawaii Islands.

Open every day.

E. P. ADAMS,

Auctioneer and Commission Merchant,

Queen Street, Honolulu, Hawaii Islands.

Open every day.

F. H. HARRIS,

Attorney at Law, Notary Public and

Master in Chancery,

Office in Kaino Building, Kamehameha Street,

Honolulu, Hawaii Islands.

Open every day.

JOHN H. PATE,

Notary Public and Commissioner of Deeds

For the State of California, Office at the Bank of Bishop

Co., Kamehameha Street, Honolulu, Hawaii Islands.

Open every day.

DILLINGHAM & CO.,

IMPORTERS AND DEALERS IN HARDWARE,

Castor, Dry Goods, Paints and Oils, and General Mer-

chandise, 18 Merchant Street, Honolulu.

Open every day.

AFON & CHUCK,

Importers, Wholesale and Retail Dealers in

General Merchandise,

And China Goods, in the Five-proof Stores on Queen Street, Honolulu, Hawaii Islands.

Open every day.

HYMAN BROTHERS,

IMPORTERS AND WHOLESALE DEALERS

In Fashionable Clothing, Hats, Caps, Boots, Shoes, and

every variety of Gentleman's Furnishing Goods. Store,

50 Merchant Street, Honolulu, Hawaii Islands.

Open every day.